

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

_____	:	
ROBERT A. BURKE,	:	
	:	Civil No. 17-7870(RMB-KMW)
Plaintiff,	:	
	:	
v.	:	<b>OPINION</b>
	:	
JEFF SESSIONS, <i>et al.</i> ,	:	
	:	
Defendants.	:	
_____	:	

**BUMB**, District Judge

Plaintiff, Robert A. Burke, a prisoner incarcerated in the Federal Correctional Institution in Fort Dix, New Jersey, filed this civil rights complaint on October 4, 2017. (Compl., ECF No. 1.) This matter is before the Court *sua sponte* pursuant to Local Rule 10.1(a) because Plaintiff's legal mail was returned to the Court as undeliverable on March 18, 2019 and Plaintiff has not informed the Court of his forwarding address.

**I. BACKGROUND**

After initiating this action, Plaintiff filed a Second Amended Complaint on March 26, 2018. (Second Am. Compl., ECF No. 9.) By Opinion and Order dated December 14, 2018, the Court screened the Second Amended Complaint pursuant to 28 U.S.C. § 1915A and (1) permitted Plaintiff's Eighth Amendment conditions of confinement claim to proceed against Warden David Ortiz and John

Doe #1 and directed the Clerk to issue a summons to Plaintiff, who is not proceeding *in forma pauperis*; (2) dismissed Plaintiff's Eighth Amendment conditions of confinement claim against Defendants Sessions, Inch, Carvajal and Santana without prejudice; and (3) dismissed the remainder of the claims with prejudice. (Opinion and Order, ECF Nos. 10, 11.)

On January 18, 2019, the Court administratively terminated this action pursuant to Standing Order 18-4, during the federal government shutdown. (Order, ECF No. 13.) On February 6, 2019, the Court directed the Clerk to reopen this case upon expiration of Standing Order 18-4. (Order, ECF No. 14.) On March 6, 2019, Plaintiff filed a Third Amended Complaint, which remains to be screened pursuant to 28 U.S.C. § 1915A. (Third Am. Compl., ECF No. 15.) Then, on March 18, 2019, legal mail sent to Plaintiff at FCI Fort Dix was returned to the Court with notice that Plaintiff is no longer at FCI Fort Dix. (ECF No. 16.) Upon review of the docket, Plaintiff has not filed a return of service of the summons on Warden David Ortiz.

## II. DISCUSSION

Local Civil Rule 10.1(a) provides, in relevant part:

unrepresented parties must advise the Court of any change in their . . . address within seven days of being apprised of such change by filing a notice of said change with the Clerk. Failure to file a notice of change may result in the imposition of sanctions by the Court.

Dismissing a Plaintiff's complaint without prejudice is an appropriate remedy for noncompliance with this rule. See Archie v. Dept. of Corr., Civ. No. 12-2466 (RBK/JS), 2015 WL 333299, at \*1 (D.N.J. Jan. 23, 2015) (collecting cases).

If Plaintiff seeks reopens this action, he shall show good cause, pursuant to Federal Rule of Civil Procedure 4(m), for failure to serve the summons and Second Amended Complaint on Warden David Ortiz within 90 days of the date the Second Amended Complaint was filed, December 14, 2018.

### III. CONCLUSION

The Court will dismiss this case without prejudice pursuant to Local Rule 10.1 An appropriate order follows.

Date: July 18, 2019

s/Renée Marie Bumb  
**RENÉE MARIE BUMB**  
United States District Judge